IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 23674 of 2006(R)

PETITIONER:

P. SHAMSHEER, S/O.MUHAMMED PADAVANNA,
PROPRIETOR, `APPOOZE PETROLEUMS', OOTTY ROAD,
VAZHIKKADAVU AMSOM, P.O. VAZHIKKADAVU,
NILAMBUR TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.R.RAJESH KORMATH

RESPONDENTS:
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1. THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD, VAZHIKKADAVU,
MALAPPURAM DISTRICT.

2. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY,THIRUVANANTHAPURAM.

***3. POOKKODAN NOUSHAD, S/O. POOKKODAN SUBAIR,**
POOKKODAN HOUSE, MANIMOOLI POST, NILAMBUR,
NOW IN DUBAI, REP. BY THE POWER OF ATTORNEY HOLDER,
MOHAMMED IQUBAL, S/O. MOIDEEN, VAZHIKADAVU P.O.,
NILAMBUR TALUK, MALAPPURAM DIST.

***4. CHOORAPPILAN JAMEELA,**
VAZHIKADAVU AMSOM AND DESOM,
MANIMOOLI POST, NILAMBUR TALUK,
MALAPPURAM DIST.

***ADDL. R3 AND R4 ARE IMPLEADED AS PER ORDER IN IA NO. 14615/2006 DATED 20/10/2006.**

BY GOVERNMENT PLEADER SRI. M.K.PUSHPALATHA
ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB
ADV.SRI.BABU S. NAIR --R4
ADVS. SRI. M.C. SEN --R3
SRI.M.P.SREEKRISHNAN
SMT.SHAHNA KARTHIKEYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 23674/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE SITE MAHAZAR DATED 2/07/2005.

EXT.P2. COPY OF THE REPLY DT. 12/7/2005 FURNISHED BY THE PETITIONER.

EXT.P3. COPY OF THE REPLY DT. 4/10/2005 SENT BY R1 TO THE PETITIONER.

EXT.P4. COPY OF THE COMMUNICATION DT. 7/7/06 SENT BY THE R1 TO THE PETITIONER.

EXT.P5. COPY OF THE REPLY DT. 13/7/2006 SENT BY THE PETITIONER TO R1.

EXT.P6. COPY OF THE COMMUNICATION DT. 20/7/2006 ISSUED BY THE R1 TO THE PETITIONER.

EXT.P7. COPY OF THE PENAL BILL DT. 18/7/2006 FOR RS. 27,000/-

EXT.P8. COPY OF THE RECEIPT FOR THE REMITTANCE OF EXT. P7 PENAL BILL.

EXT.P9. COPY OF THE PLAINT DT. 3/08/2005 IN OS NO. 206/2005 OF THE FILE OF THE COURT OF THE MUNSIFF OF MANJERI.

EXT.P10. COPY OF THE ORDER DT. 4/08/2006 IN IA NO. 258/2006 IN AS NO. 25/2006 ON THE FILE OF THE COURT OF THE DIST. JUDGE, MANJERI.

EXT.P11. COPY OF THE PROVISIONAL SANCTION ORDER DT. 09/08/2006 BY ELECTRICAL INSPECTOR, MALAPPURAM.

EXT.P12. COPY OF THE REPLY NOTICE DT. 28/7/2005 ISSUED ON BEHALF OF THE PETITIONER.

EXT.P13. COPY OF THE RELEVANT PORTION OF THE ACKNOWLEDGEMENT CARD DT. 30/7/2005 EVIDENCING RECEIPT OF EXT. P12.

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RESPONDENT'S EXHIBITS

EXT.R3A. COPY OF THE LETTER DT. 19/6/2005 RECEIVED BY THE R3 FROM THE R1.

EXT.R4A. COPY OF THE WRITTEN STATEMENT FILED BY THE R4 HEREIN IN OS NO. 206/2005 OF THE MUNSIFF COURT, MANJERI DT. 8/11/2005.

EXT.R4B. COPY OF THE LAWYER NOTICE ISSUED BY T.KUNHALI ADVOCATE, ON BEHALF OF THE R4 TO THE PETITIONER DT. 13/7/2005.

True copy

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K.BALAKRISHNAN NAIR,J.

WP(C)NO.23674 OF 2006-R

Judgment

The petitioner is running a petroleum outlet at Vazhikkadavu in Malappuram district. The outlet is established in a property taken on lease from the additional respondents 3 and 4. At present, there is an electricity connection to the premises with Consumer No.448E of the then Edakkara Section. The tariff made applicable is VIIA which is a higher tariff. The said existing connection is in the name of one Mr.Koshy, who is stated to be the assignor of the petitioner's lessors. The petitioner has applied for a fresh connection in his name for the running of the petroleum bunk. The said connection is not being granted by the officials of the KSEB. Therefore, this Writ Petition is filed, seeking appropriate reliefs.

2. The learned Standing Counsel for the KSEB submitted that there is already a connection to the premises. There cannot be two connections for the very same purpose in the very same premises. Therefore, the existing connection has to be dismantled. When steps were taken for the same, the petitioner moved the Civil Court and obtained interim injunction against the KSEB from dismantling it. If the petitioner withdraws the suit, his application for fresh connection shall be considered and disposed of in accordance with law. According to the additional respondents, the existing connection does not belong to them or their assignors. It is in the neighbouring premises which has been acquired by the petitioner. The learned counsel for the petitioner pointed out that the above

contention raised by respondents 3 and 4 runs counter to their stand in the suit pending before the Court below.

3. Even if the lessors object, the petitioner is entitled to get power supply under Regulation 14(4) of the Terms and Conditions of Supply 2005. If the petitioner complies with the stipulations contained in that Regulation, power supply shall be granted to him notwithstanding the objection of respondents 3 and 4. The petitioner may withdraw the suit. In that event, the 1st respondent shall process the application of the petitioner and take a decision thereon. If there is any defect, the petitioner shall be given an opportunity to cure the same. In other words, his application shall not be rejected on technical grounds. Since the petitioner is running a petroleum bunk, it is only appropriate that the dismantling of the existing connection be deferred till the fresh connection is granted to him. The action in this regard shall be taken and completed by the 1st respondent within one month from the date of receipt of a copy of this Judgment.

The Writ Petition is disposed of as above.

26.02.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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